



600 NW 62nd Avenue
PO Box 6200
Johnston, Iowa 50131-6200
515-286-4300 • 800-632-1423
515-280-4140 fax
www.iowabankers.com

July 18, 2008

Ms. Jennifer Johnson
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Re: Docket No. R-1315
Truth in Savings Act – Proposed Rules on Overdraft Services

Dear Ms. Johnson,

Iowa Bankers Association (IBA) is a trade association representing over 350 banks and savings and loan associations operating in the state of Iowa. Our membership is predominantly comprised of financial institutions deemed to be “small” or “intermediate small” for purposes of the Community Reinvestment Act (CRA). Most banks offer at least one form of overdraft protection service; many offering a range of services, which include discretionary payment on a case-by-case basis on review by the account officer, automated overdraft payments up to an established overdraft limit, preauthorized transfers from savings or another deposit account of the customer, and overdraft reserve open-end credit lines disclosed in accordance with Reg. Z requirements.

Bankers acknowledge that customers, for the most part, appreciate the availability of overdraft protection services. Though there is a cost to the customer for this service, the benefit is that the customer pays only *one* fee – the fee charged by the bank for each item paid into overdraft – rather than a fee charged by the bank for returning items presented against insufficient funds, *plus* a fee imposed by the merchant for the return check (in Iowa, that fee is statutorily set at \$30), and potential collection fees and negative credit reporting. Admittedly, there are customers who, for whatever reason, are unable or unprepared to properly manage a checking account, and who write checks or conduct ATM/debit card transactions knowing there are insufficient funds to cover the transactions. Unfortunately, these are the customers who are most negatively impacted by automated overdraft protection services.

However, customers do not operate in a vacuum – they are provided disclosures when they open accounts that describe a bank’s overdraft services, and are well apprised of a bank’s overdraft fees. In many cases, customers knowingly write checks or conduct transactions against insufficient balances with the comfort of knowing that those transactions will be honored, thanks to the established overdraft protection services offered by their banks.

We believe the existing Joint Agency Guidance on Overdraft Protection Programs, issued February 18, 2005, and the provisions of Reg. DD, effective July 1, 2006, have enhanced disclosures to customers about overdraft protection services provided by their banks.

At account opening, most bankers are diligent to explain options available to the customer in the event of inadvertent overdrafts. As suggested in the Joint Agency Guidance, banks already allow customers to opt-in or -out of these overdraft services; however, most customers choose to use one form or another to prevent unintentional overdrafts.

Therefore, in general, we do not object to the Board's proposal to require notice to consumers informing them of their right to decline, or opt-out of, a bank's overdraft protection services. Nor do we object to the requirement that all financial institutions include on periodic statements information about the aggregate costs of the overdraft service for the statement period and the calendar year-to-date. Banks that promote or advertise overdraft protection programs already provide these disclosures; and banks not already including this information on periodic statements will find this a very simple addition, as their statement processing provider already has the programming to "turn on" this feature. Further, we have no objection to requiring that responses to balance inquiries, whether the inquiry is made via ATM, internet, or telephone response system, include only the amount of funds available for the consumer's immediate use or withdrawal, without incurring an overdraft.

However, we have concerns regarding several of the specific mandates within the proposal, as discussed below.

§ 230.10 Opt-out disclosure

Reasonable method to opt out

We believe that, in addition to providing a bank phone number or address as methods available to the consumer to opt-out of overdraft protection services, a bank should be allowed to direct consumers to a form on its internet banking service to decline overdraft protection.

Timing

The proposal suggests that the opt-out disclosure must be provided 1) prior to the imposition of a fee for payment of an overdraft (presumably, this would include delivery of the opt-out disclosure at the time an account is opened); *AND* 2) on each periodic statement reflecting any overdraft fees in close proximity to the aggregate fees disclosure, *or* at least once per statement period or any notice sent promptly after the payment of an overdraft.

We believe a notice given at time of account opening is sufficient to advise a consumer of the right to opt-out of overdraft protection services. We suggest that the notice clearly explain that the right to opt-out of the service may be elected at any time during the account relationship, thereby allowing the customer to elect to opt-out immediately, or at any later date.

Providing the notice on every statement is redundant and unnecessary. Consumers need not be "hammered over the head" about their right to opt-out. When a consumer inspects a periodic statement, reviews aggregate charges for the statement period and year-to-date, if the consumer doesn't like the numbers, the *consumer* should take the initiative to contact the bank and discuss options to avoiding the fees. If the Board insists on requiring a routine notice to consumers, we suggest it should be delivered in the same manner as the Reg. E error resolution notice and Reg. Z billing error notice, a short-form notice included on the periodic statement. We object to any provision mandating the location or type size of such a notice.

§ 230.11 Additional disclosure requirements for overdraft services

Format requirements

We are extremely concerned about the provision within proposed Appendix B, model clause B-10 "Overdraft Services Opt-Out Notice Sample Form," that gives the consumer the right to prohibit

overdraft payments for ATM withdrawals and debit card purchases, but continue to pay overdraft for other transactions. We are particularly concerned with a consumer's right to opt-out of overdraft payments for debit card purchases. There are system limitations within debit card networks, over which banks have little control, that mandate such transactions be cleared once a merchant authorization has been granted. For this reason, we suggest that the consumer's right to opt-out of overdraft protection services be all or none. We recommend the statement, "You also have the right to tell us not to pay overdrafts for ATM withdrawals and debit card purchases, but to continue to pay overdrafts for other types of transactions" be stricken from model clause B-10.

Thank you for your consideration of our comments, and for your efforts to advance consumer protection and education. If you have questions related to this letter, you may contact me at Iowa Bankers Association, 515-286-4391 or via e-mail, dbauman@iowabankers.com.

Sincerely,

A handwritten signature in black ink that reads "Dodie Bauman". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Dodie Bauman, CRCM
Compliance Manager